

AN ACT

ENTITLED, An Act to promote personal responsibility and provide temporary assistance for needy families and to revise certain provisions relating to public assistance.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. The implementation of assistance under this Act does not establish a personal or family entitlement to assistance.

Section 2. Terms used in this Act mean:

- (1) "Assistance," includes money, services, goods, or other types of temporary assistance made with respect to any child or with respect to the parents of any child for whom federal funds are available to the state under this Act;
- (2) "Department," the Department of Social Services;
- (3) "Title IV," including its derivatives, refers to Title IV of the federal Social Security Act.

Section 3. The terms, aid to dependent children or aid to families with dependent children, wherever used in this code refer to temporary assistance for needy families unless otherwise indicated. The code commission in future supplements and revisions of the South Dakota Codified Laws shall substitute the term, temporary assistance for needy families, and its derivatives for the terms, aid to dependent children or aid to families with dependent children, and their derivatives.

Section 4. The department may adopt such rules as may be necessary and desirable to implement the provisions of this Act. The department may adopt rules to regulate:

- (1) Assistance eligibility qualifications, application procedure, and assistance level;
- (2) Employability assessment, work activities, and supportive services;
- (3) Conditions of continued eligibility, eligibility time limits, eligibility recertification periods, and exemptions;
- (4) Program participation requirements, criteria for disqualification, and good cause exemptions;

- (5) Disqualification for intentional program violation or failure to comply with program requirements;
- (6) Benefit recovery and recoupment policies and procedures;
- (7) Methods of distribution and payment of moneys appropriated by the Legislature or received from the federal government for the granting of temporary assistance for needy families;
- (8) Development of applications, reports, and other forms;
- (9) Enforcement of child support obligations including distribution of collections, cooperative agreements with courts and law enforcement officials, and such other rules as may be found necessary or desirable to qualify for federal financial participation;
- (10) Collection, audit, and reporting of facts and statistics relating to the field of public assistance;
- (11) Compliance with federal reporting and documentation requirements necessary to qualify for federal funds;
- (12) Such other rules and standards of operation and administration within the mandate of this Act as may be necessary or desirable to qualify for federal financial participation.

The rules shall be adopted in accordance with chapter 1-26 and shall be consistent with this Act.

Section 5. Eligibility criteria and assistance level for temporary assistance for needy families shall be determined by the department with due regard to the necessary expenditures of families in this state.

Section 6. An applicant for or recipient of assistance under this Act shall supply proof of or apply for a social security number as a condition of eligibility to receive assistance. The parent or relative with whom the child resides shall comply on behalf of a child for whom assistance is claimed.

Section 7. An applicant or recipient of assistance under this Act shall, as a condition of eligibility for assistance, cooperate with proceedings to establish paternity and to enforce, collect, or modify

child support on behalf of any child for whom assistance is claimed or received.

Section 8. Application for or receipt of assistance under this Act or of foster care maintenance payments under the Title IV-E state plan shall operate as an assignment by operation of law of all support rights from any person, which such applicant or recipient may have on the applicant's or recipient's own behalf or on behalf of any other family member for whom the recipient is receiving assistance or Title IV-E foster care maintenance payments, including any support payments accrued and unpaid at the time of the assignment.

Section 9. Application shall be made in a manner prescribed by the department. The department shall promptly notify the applicant of its decision.

Section 10. The department shall make such assessment of the skills, prior work experience, and employability of eligible applicants or recipients as may be necessary and feasible for the purposes of this Act.

Section 11. The department may adopt by rules promulgated pursuant to chapter 1-26 reasonable standards for the participation of eligible recipients in work activities and programs of assistance calculated to foster parental responsibility, employment, or family independence. To the extent possible in a work oriented program, training and education, although not an alternative for working, may be utilized to prepare people for work.

Section 12. The department may deny, reduce, or terminate assistance to an applicant or recipient who voluntarily refuses to participate in an assessment, work activity, or assistance program for such period as may be reasonably necessary to deter program waste or abuse. The department may adopt by rules promulgated pursuant to chapter 1-26 necessary and reasonable exemptions and deferrals. The department shall have access to the home of a dependent child at reasonable times for the purpose of conducting such investigation as may be necessary to assure compliance with program requirements.

Section 13. The department may implement such programs of assistance as may be feasible and

reasonably calculated to fulfill the purposes of this Act. This Act does not require the department to provide assistance in the absence of legislative appropriation therefor.

Section 14. An adult in a family receiving assistance under this Act may fill a vacant employment position in order to engage in a work activity except no such adult may be employed or assigned if any other individual is on layoff from the same or any substantially equivalent job or if the employer has terminated the employment of any regular employee or otherwise caused an involuntary reduction of its workforce in order to fill the vacancy so created.

Section 15. The department may reconsider assistance as frequently as may be required. The department may deny, reduce, suspend, or terminate assistance as the circumstances may indicate upon such reconsideration.

Section 16. An applicant or recipient whose application is denied or not acted upon or who is aggrieved by any action affecting receipt, suspension, reduction, or termination of assistance may appeal the action or inaction as provided in chapter 1-26.

Section 17. No applicant or recipient of assistance under this Act may:

- (1) Intentionally make or cause to be made any false statement or misrepresentation in any application, report, or other communication with the department; or
- (2) Having knowledge of any event or circumstance affecting the initial or continued eligibility for assistance, intentionally conceal or fail to disclose that event or circumstance for the purpose of obtaining assistance.

The department may deny, reduce, or terminate assistance to any person or household who has violated this section for such period as may be reasonable or necessary to deter fraud or program abuse.

Section 18. The department may adopt, pursuant to chapter 1-26, necessary and reasonable policies and procedures to recover or recoup any overpayment of assistance that resulted from fraud or misrepresentation, erroneous determination of eligibility or amount of assistance, or otherwise.

Section 19. Assistance granted under this Act is not transferable or assignable at law or in equity. No money paid or assistance granted under this Act is subject to execution, levy, attachment, garnishment, or other legal process, except as may be expressly authorized by law for purposes of recovery or recoupment by the department, or to the operation of any bankruptcy or insolvency law.

Section 20. Assistance implemented under this Act is subject to the provisions of any amending or repealing act that may hereafter be enacted. No applicant or recipient of assistance under this Act has any claim for compensation or otherwise by reason of the effect of any such amending or repealing act.

Section 21. That § 28-6-3 be repealed.

Section 22. That §§ 28-7-1, 28-7-1.1, 28-7-1.2, 28-7-2, 28-7-4, 28-7-5, 28-7-6, 28-7-6.3, 28-7-7, 28-7-8, 28-7-9, 28-7-10, 28-7-12, 28-7-13, 28-7-13.2, 28-7-13.3, 28-7-14, 28-7-15, 28-7-16, 28-7-17, 28-7-18, 28-7-19, 28-7-26, 28-7-27, and 28-7-28 be repealed.

Section 23. That §§ 28-7-3.1, 28-7-17.1, 28-7-17.2, 28-7-17.4, 28-7-17.5, and 28-7-25 be transferred to chapter 28-1.

Section 24. That §§ 28-1-13.2, 28-1-30, and 28-1-54 to 28-1-58, inclusive, be repealed.

Section 25. That § 28-1-59 be amended to read as follows:

28-1-59. A recipient of public assistance who incurs permanent partial disability, permanent total disability, death, or disease in the course of participation in a work activity is entitled to the same benefits as are set forth for work related injuries and diseases in Title 62. This provision does not include payment of medical expenses unless those expenses are necessitated by a permanent disability or disease. Eligibility for other public funded medical benefits shall reduce entitlement to medical benefits under this section accordingly. In order to receive the above-referenced disability benefits, a work activity participant must comply with all of the employee notice, reporting, and medical examination requirements set forth in Title 62. The initial report of injury shall be submitted by the work activity participant in writing to the Department of Social Services.

Section 26. That § 62-3-15 be amended to read as follows:

62-3-15. Except as provided in §§ 28-1-59, 62-3-16, and 62-3-17, this title does not apply to:

- (1) Domestic servants unless working for an employer for more than twenty hours in any calendar week and for more than six weeks in any thirteen-week period; or
- (2) Farm or agricultural laborers; or
- (3) Work activity participants.

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I certify that the attached Act
originated in the

SENATE as Bill No. 259

Secretary of the Senate
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President of the Senate

Attest:

Secretary of the Senate

Speaker of the House

Attest:

Chief Clerk

Senate Bill No. 259
File No. _____
Chapter No. _____

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Received at this Executive Office
this ____ day of _____ ,

19__ at ____ M.

By _____
for the Governor
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The attached Act is hereby
approved this _____ day of
_____, A.D., 19__

Governor
=====

STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 19__
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State